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Security Council

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Letter dated 30 April 2014 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you a letter from Najib Ghadbian, Special Representative of the Syrian Coalition, dated 30 April 2014 (see annex).

I would be grateful if you could circulate the present letter and its annex to the Member States as a document of the Security Council.

(*Signed*) Abdallah **Al-Mouallimi**
Ambassador
Permanent Representative

14-31746 (E) 020514

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Annex to the letter dated 30 April 2014 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the President of the Security Council

On behalf of the people of Syria and the National Coalition of Syrian Revolution and Opposition Forces, it is my grave responsibility to draw to your attention the serious and systematic violations of Security Council resolution 2139 (2014) by the Syrian regime and the urgent need for members of the Council to take further measures to ensure that humanitarian aid reaches those in need. I also wish to inform you of the Coalition's efforts to set the stage for direct communication between the United Nations and groups on the ground in order to prepare for and facilitate humanitarian access, and of the efforts undertaken to secure commitment by opposition fighters to principles of international humanitarian law and humanitarian access.

For the past three years the Syrian regime has employed a brutal strategy designed to force the people of Syria into submission and silence dissent to its rule. Despite the adoption by the Security Council of its presidential statement of 2 October 2013 and its resolution 2139 (2014), the Syrian regime has repeatedly defied the will of the Council and flagrantly violated international humanitarian and human rights law. Among its many violations, the Syrian regime is responsible for:

- *Arbitrary denial of access.* Throughout the past three years of conflict, the Syrian regime has consistently refused to allow prompt, unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners. Instead, it has denied aid agencies access across conflict lines and across borders, thereby imperilling the lives of millions of Syrians. The arbitrary denial of humanitarian access constitutes a direct and clear violation of paragraph 6 of Security Council resolution 2139 (2014), in which the Council unanimously demanded that "Syrian authorities promptly allow rapid, safe and unhindered humanitarian access for United Nations humanitarian agencies and their implementing partners, including across conflict lines and across borders".

- *Indiscriminate aerial bombardment of civilian areas.* Both the independent commission of inquiry and the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator have documented the wide-scale use of aerial weapons, including barrel bombs, by regime forces to indiscriminately kill and injure innocent civilians. Such illegal actions directly violate the Geneva Conventions of 1949 and their additional protocols, as well as the Security Council's demand that the Syrian regime cease "the indiscriminate employment of weapons in populated areas, including shelling and aerial bombardment, such as the use of barrel bombs" (resolution 2139 (2014), para. 3).

- *Siege warfare.* Two months after the adoption of Security Council resolution 2139 (2014), 197,000 people remain trapped in areas besieged by Syrian regime forces. In Eastern Ghouta, Madamiyet Elsham, Yarmouk, Darayya and the Old City of Homs, thousands are suffering from disease and malnutrition, with far too many dying as a result of regime-induced starvation. The use of siege warfare constitutes a violation of the Geneva Conventions, as well as the International Covenant on Civil and Political Rights and the International

Covenant on Economic, Social and Cultural Rights -- all of which Syria is a party to. Moreover, it directly violates paragraph 5 of resolution 2139 (2014), in which the Council called on the Syrian regime "to immediately lift the sieges of populated areas".

- *Torture and illegal detention.* The Syrian regime continues to torture and arbitrarily detain civilians in prisons and detention facilities across Syria. Thousands of Syrians, including women and children, have been illegally detained by Syrian regime forces and have been the subject of torture, sexual violence and degrading prison conditions. These actions violate the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — both of which Syria is a party to. They also violate paragraph 11 of Security Council resolution 2139 (2014), in which the Council demanded an end to the arbitrary detention and torture of civilians.

- *Militarization of hospitals and obstruction of passage of medical supplies.* Eight months after the adoption of the presidential statement of 2 October 2013, the Syrian regime continues to impede the safe passage of medical supplies and personnel to thousands of Syrians in need. Syrian security forces brazenly remove medical supplies, surgical tools and medicines from convoys intended to reach opposition-held areas. They also continue to use hospitals and schools as instruments of war, all of which violates paragraphs 8 and 10 of Council resolution 2139 (2014).

In contrast to the Syrian regime's growing repertoire of violence, the Syrian Coalition and its partner, the Supreme Military Council of the Free Syrian Army, have sought diligently to uphold international law and implement Security Council resolution 2139 (2014). As a result, the Supreme Military Council has now joined the Syrian Coalition in signing on to the Declaration of Commitment on Compliance with International Humanitarian Law and the Facilitation of Humanitarian Access (S/2014/224, enclosure 2). We have also jointly demanded the immediate demilitarization of all schools and hospitals in Syria (enclosure 1). To ensure proper implementation, the Supreme Military Council is currently revising its Proclamation of Principles and will issue new guidance to all battalions to make it known that any individual or brigade that violates international humanitarian law will be held accountable. In addition, we have taken new steps to ensure that sexual violence as an instrument of war in Syria is eradicated, including by adopting our Communiqué to Eliminate Sexual Violence (enclosure 2), in which we jointly endorse the Declaration of Commitment to End Sexual Violence in Conflict.

We have also reached out widely among the opposition and in opposition areas to lay the groundwork for the preparation and eventual implementation of humanitarian access efforts. We have previously submitted information on such issues to the Security Council, and have met with the Office for the Coordination of Humanitarian Affairs on multiple occasions. In order to advance the sharing of information for an assessment of conditions on the ground, in the coming days we will be transmitting to the Office more detailed information regarding the situation on the ground in a number of locales about which the Office has inquired and will continue to do so on an ongoing basis in verbal and written communications with the Office. We will also be providing name and contact information for liaisons to facilitate communications among the Office and the Free Syrian Army groups on the

ground, in order to assess and prepare the situation for humanitarian access purposes.

As indicated in our letter to the Security Council dated 26 March 2014, we remain committed to working transparently with the Office for the Coordination of Humanitarian Affairs, both by facilitating contact with commanders on the ground and by sharing intelligence which might facilitate the delivery of aid to Syrians in need.

As important as such efforts are, however, the Syrian Coalition and the Supreme Military Council alone cannot ensure the full implementation of Security Council resolution 2139 (2014). Primary responsibility for the implementation of key parts of the resolution falls on the Syrian regime, which — as the United Nations High Commissioner for Human Rights stated on 8 April 2014 — is the party most responsible for human rights offences in Syria. Unfortunately, however, the actions undertaken by the Council have to date failed to compel the Syrian regime either to abide by international law or to take any significant measures which might improve the lives of innocent civilians.

Instead, Syrian authorities have succeeded in manipulating the current aid regime to bolster their own positions on the ground and further suppress dissent throughout the country. As a result of such efforts, as much as 90 per cent of all World Food Programme aid reaches only regime-held areas. This leaves millions of Syrians in opposition-held areas without sufficient access to food and water. The international community cannot in good conscience allow this humanitarian catastrophe to continue.

The arbitrary denial of humanitarian access to Syrians in need cannot go unanswered by the Security Council. The people of Syria require cross-border access to enable aid to reach those who need it. Should the Syrian regime refuse to grant such access, then it is the duty of the Council to develop alternative means to ensure the delivery of aid across borders, without regime consent.

There is a clear legal basis for the Security Council to enforce cross-border access, without regime consent, forged on the basis of the Syrian regime's arbitrary denial of consent for humanitarian access across borders and crossing points. As demanded by the additional protocols to the Geneva Conventions of 8 June 1977, relief actions must be undertaken by humanitarian organizations in cases where the survival of a population is at risk and a humanitarian organization can provide assistance which a governing authority is obliged but refuses to provide. The provision of such assistance does not represent a breach of State sovereignty, so long as the principles of humanity and impartiality are respected. We know that the United Nations respects both such principles. Further, many of the hard-to-reach areas are controlled by opposition groups rather than the Syrian regime, as we will further and more specifically clarify with the Office for the Coordination of Humanitarian Affairs on a continuing basis. Moreover, international humanitarian law allows parties to withhold consent only for valid legal reasons, not for arbitrary reasons. The Syrian regime has denied consent for humanitarian cross-border relief operations for illegitimate punitive purposes, as the Security Council has been told in briefings by United Nations officials. Accordingly, the United Nations and its implementing partners should feel empowered to apply international humanitarian law and undertake cross-border humanitarian operations to deliver direct cross-border humanitarian assistance in opposition-controlled areas.

Despite the adoption of Security Council resolution 2139 (2014), almost half of the Syrian population remains in urgent need of care. Millions remain beyond the reach of humanitarian aid. We know that many of these people will die as a result of starvation and disease should cross-border access fail to materialize. Two months ago, members of this Council unanimously demanded cross-border access. The time has come to uphold international law, to enforce the will of the Council and to make cross-border access a reality.

(*Signed*) Najib **Ghadbian**
Special Representative to the United Nations

Enclosure 1

Free Syrian Army calls for the immediate demilitarization of schools and hospitals

The Free Syrian Army is gravely alarmed by the deliberate targeting of schools and hospitals by Syrian regime forces. Over the past three years, Syrian armed forces have engaged in a calculated strategy to transform objects indispensable for civilian survival and education into brutal instruments of war. Today, dozens of vital institutions once designated for the care and education of Syrian citizens are being used to shelter combatants, store arms and ammunition, and serve as military observation posts and shields for military action by the regime.

The deliberate targeting of hospitals and schools and their occupation by military forces represents a direct violation of domestic and international law, as defined by common article 3 of the Geneva Conventions of 1949. These practices also violate Syria's own constitution, which demands that officials "protect citizens' health and provide means of prevention, treatment and medication".

All parties to the crisis in Syria have a legal and moral obligation to protect schools and hospitals and to respect their civilian character. The Free Syrian Army fully supports the demilitarization of all schools and hospitals used for military purposes. We stand ready to work with the international community to ensure the immediate and complete demilitarization of all schools and hospitals under our jurisdiction.

To support these efforts, the Free Syrian Army today states its official position prohibiting the militarization of schools and hospitals, and will amend its Proclamation of Principles to reflect the same. This statement will be circulated among all of our battalions and guide the actions of our members. Any individual found to violate the principles listed in our proclamation will be held accountable, in accordance with international law.

(*Signed*) Ahmad **al Jarba**
President, Syrian Opposition Coalition

(*Signed*) General Abdulilah **al Bashir**
Chief of Staff, Supreme Military Council

Enclosure 2

Communiqué to Eliminate Sexual Violence

National Coalition of Syrian Revolution and Opposition Forces and the Free Syrian Army

April 2014

1. The National Coalition of Syrian Revolution and Opposition Forces and the Free Syrian Army are gravely concerned by the prominent role sexual violence has played in the Syrian conflict. We are outraged by all acts of rape, sexual assault and other inhumane acts committed by Syrian regime forces and affiliated militias, as well as any acts of sexual violence alleged to have been committed by members of other armed groups in Syria.

2. Sexual violence committed during armed conflict represents a violation of international humanitarian law and may constitute war crimes, as defined by the Geneva Conventions of 1949 and the additional protocols thereto of 1977, the Convention relating to the Status of Refugees, of 1951, the Convention on the Elimination of All Forms of Discrimination against Women, of 1979, and the United Nations Convention on the Rights of the Child, of 1989.

3. The Syrian regime is the principal perpetrator and enabler of sexual violence in Syria. Regime and pro-regime forces have used sexual violence, including rape, at detention centres and prisons. They have used the threat of rape as a tool to terrorize and punish women, men and children.

4. We will not tolerate sexual violence perpetrated by any party. We are committed to taking all steps necessary to eliminate such violence and to hold perpetrators accountable. We have voiced such commitments both in our Declaration of Commitment on Compliance with International Humanitarian Law and the Facilitation of Humanitarian Assistance and our Proclamation of Principles.

5. We fully endorse the Declaration of Commitment to End Sexual Violence in Conflict and support international efforts to tackle the scourge of sexual violence.

6. In accordance with Security Council resolution 2106 (2013), we pledge to:

(a) Issue clear orders prohibiting sexual violence;

(b) Implement specific commitments to ensure the timely investigation of alleged abuses;

(c) Designate a high-level representative to cooperate with the Special Representative of the Secretary-General on Sexual Violence in Conflict to ensure the full implementation of this communiqué.

7. A sustainable end to all violence in Syria, including sexual violence, will only be achieved by a political solution to the conflict. We therefore call upon the international community to fulfil its obligations to restore peace and security in

Syria by compelling the Syrian regime to agree to a political transition, as required by the Geneva communiqué and Security Council resolutions 2118 (2013) and 2139 (2014).

(*Signed*) Ahmad **al Jarba**
President, Syrian Opposition Coalition

(*Signed*) General Abdulilah **al Bashir**
Chief of Staff, Supreme Military Council